

Bureau of Industry and Security
Remarks of David W. Mills
Assistant Secretary for Export Enforcement
BIS Annual Update Conference
September 1, 2010

Good afternoon, and thank you for coming today. It's nice to see so many familiar faces. And it's great to be back at the Commerce Department. This is where I started my career as a young attorney for the Bureau of Export Administration in the 1980s. And now, under President Obama, I have the honor of serving as the Assistant Secretary for Export Enforcement.

In the intervening three decades, much in the world has changed:

Global trade has grown exponentially;

The number of nations Americans regularly do business with has grown dramatically;

Today, some of our most significant adversaries during the Cold War have become our most important trading partners.

But flourishing global trade has made dual-use items more accessible, and the possibility that American-made technology can be used against us has grown.

Today, we face myriad threats from bad actors, rogue regimes and terrorist groups, threats that are both more diffuse and far less predictable than ever before.

But what has stayed the same since I last worked at Commerce is the importance of robust export controls, and smart export enforcement.

Additionally, it continues to be a top priority of BIS to work cooperatively with the crucial first line of defense against illegal export transactions: our exporters, forwarders, and couriers. These are the folks who know what products are being exported, who the ultimate end-users will be and where they're located, and how best to comply with the EAR.

Stopping bad actors from doing us harm will take a tremendous effort.

And effective export enforcement remains a critical pillar of our national security strategy and foreign policy objectives.

Export Enforcement will always prosecute any threat to America's national security. If someone sells items that enhance the military capabilities of a potential adversary, we will leave no stone unturned to prosecute them.

So how does Export Enforcement adapt to threats that arise in the increasingly globalized and technology driven world economy?

Our agents are singularly focused on export controls and have a highly developed expertise both in the regulations they enforce and the global threats that they address. It is my commitment to do these dedicated men and women justice in my capacity as the Assistant Secretary for Export Enforcement at BIS.

Our agents are based throughout the country and around the world in critical international export hubs such as Hong Kong, Singapore and the United Arab Emirates.

They are export enforcement experts; they inspect cargo before it's shipped abroad, detain items being illegally exported and they can recall shipments in transit if unlicensed exports are involved.

And the President's export control reform initiative will mean that we do more of this, not less.

Our mission is also supported by our analysts in the Office of Enforcement Analysis, or OEA, who evaluate export transactions, visas, press reporting and intelligence information to help our Special Agents better identify and investigate bad actors. And agents rely on OEA to recognize and track the evolving illegal practices that our adversaries continuously engage in.

Domestically, OEA helps licensing officers differentiate good actors from bad ones. And OEA also plays a key role in conducting and supporting end-use checks overseas by our special agents, including those serving as Export Control Officers stationed abroad. By verifying the trustworthiness of foreign end-users, OEA has enabled U.S. businesses to get licenses to sell sensitive technologies overseas.

Export Enforcement also plays a vital role in protecting American businesses from foreign boycotts, a mission charged to our Office of Antiboycott Compliance, or OAC. U.S. firms may not participate in foreign economic boycotts that are counter to U.S. foreign policy. Typically, when businesses run afoul of these regulations, it's by going along with the Arab League boycott of Israel.

In the past year, OAC has negotiated settlements in 11 cases involving alleged violations of the antiboycott provisions of the EAR, resulting in fines totaling \$350,000.

Catching those who violate our export control laws and finding the world's most sophisticated bad actors – the weapons proliferators, state sponsors of terrorism and terrorist organizations, and prohibited end-users - has become increasingly complicated.

This is why we also work closely with the Department of Justice and a number of other federal law enforcement agencies to bring criminal prosecutions, and with the Treasury Department's Office of Foreign Assets Control on joint civil settlements.

Our agents and analysts also work routinely with the domestic and international intelligence communities to disrupt and dismantle extremely sophisticated international procurement networks.

All of these agencies bring unique skills and authorities to the table. And together, we work to preserve and enhance our national security.

The use of targeted sanctions to isolate bad actors and rogue states is on the rise. And for these sanctions to work against nations like Iran and North Korea, cooperation will be at a premium.

For us, that plays to our strengths. Both within BIS and with our sister agencies, we play well with others.

Moreover, our breadth of experience helps us be a better partner with one of our most critical allies: you, the exporting community.

You have heard in the last day or so about a change of focus on the export licensing side. We also are altering our approach on the enforcement side as well. We will continue encouraging voluntary self-disclosures, and we will minimize penalties in the VSD cases where appropriate.

Moreover, if a company had a good internal compliance program in place before the violation and the violation was inadvertent, those will be considered significant mitigating factors.

But, we will also be taking a harder line in other circumstances involving willful misconduct.

While we have typically sought penalties against companies more so than individual employees, as Under Secretary Hirschhorn pointed out yesterday, this is about to change.

Going forward, when a violation is a deliberate action of an individual, we will consider seeking penalties *against that individual* - including the denial of export privileges, fines and imprisonment. The same will hold true for a supervisor who is complicit in these deliberate violations by subordinates.

Additionally, we are going to focus increasingly on disrupting major illicit procurement networks.

Over the past decade, embargoed countries like Iran and North Korea have turned to foreign middle-men and front companies to acquire U.S.-origin goods.

As a result, we've increased our focus on these off-shore networks. In the last two years alone, we've placed 185 new foreign entities on our Entity List.

This Entity List strategy has proven particularly effective because the Entity List targets the illegal export activities of companies where it hurts – their bottom line.

Once an entity is placed on the List, it typically finds its access to U.S. goods curtailed, and its business opportunities are often diminished, which can lead to financial problems. Increasingly, suppliers perceive listed entities to be radioactive and accordingly are reluctant to do business with them out of fear that they themselves may end up on the same List.

The Entity List has been a real success story, and it must continue as such. Because we know if we don't keep deploying effective new tactics, the cost to America could be devastating.

As you know, the most rudimentary dual use items can be lethal. Off-the-shelf U.S.-made electronic components have been found in Improvised Explosive Devices, or IEDs, that were used against our troops and other Coalition forces deployed in Iraq and Afghanistan, as well as injuring local civilians: men, women and children.

While the diversion and criminal misuse of these commodities and technology is unfortunately not new – it must stop.

So let me be clear: When exporters put our national security at risk, or jeopardize our foreign policy objectives, we will take quick and firm action.

As always, we will aggressively bring to bear our wide-ranging enforcement powers, and utilize to its full advantage the flexible discretion these tools give us.

We will especially focus our criminal investigatory authority, our regulatory powers and our administrative enforcement authority to target companies and individuals that aide rogue regimes and terrorist groups.

For example, look at what Export Enforcement did against the Mayrow network – headquartered in Tehran - where we exercised our role as both regulator and enforcer.

We imposed new licensing requirements to thwart Mayrow's efforts to acquire U.S.-origin goods and technology, and we simultaneously worked to criminally prosecute Mayrow and its agents, thereby taking aim at one of Iran's most lethal procurement networks.

Export Enforcement utilizes this dual regulatory and enforcement role in numerous cases to disrupt and defeat these illicit procurement networks.

Take the recent case of Balli Aviation. This is a British-based multi-national company that illegally transferred U.S.-made Boeing 747s to Mahan Air of Iran. Had Balli applied for export licenses, its applications would have been denied.

About two years ago, we learned that Balli was planning to complete the transfer of three additional planes to Iran.

We issued a Temporary Denial Order to stop that transfer, using this unique administrative authority to name the Balli Group, its involved subsidiaries and principal officers, and Mahan Air and its front company. Consequently, we were successful not only in interdicting the transfer of three additional aircraft from a third country to Iran, but also in effectively grounding the three aircraft already there.

In February of this year, Balli agreed to the largest civil penalty in the history of BIS. It was fined \$15 million to settle administrative claims brought by us and the Treasury Department.

And a federal judge handed down a \$2 million criminal fine and imposed a five-year probation against a Balli subsidiary for criminal violations charged by the Justice Department. We are currently pursuing indictments and penalties against the remaining companies and individuals involved in this activity, including those in Iran.

Another case we settled in the past year involved a Dutch firm named Aviation Services International, or ASI.

This is a small company owned and operated by a father, Robert Kraaiipoel, and his son. But this was no ordinary family run operation. ASI ran a criminal conspiracy to sell parts for airplanes and Unmanned Aerial Vehicles to Iran. The Kraaiipoels would order items from U.S. exporters, claim the parts were for legitimate end-users, and then transship the items to Iran.

As in the Balli case, we issued a Temporary Denial Order against ASI and its principals. The TDO shut down ASI's business activity and forced them to come to the table with the U.S. Government.

Last September, Robert Kraaiipoel pleaded guilty to a criminal conspiracy charge, ASI was hit with a \$100,000 criminal penalty, and we handed down a \$250,000 fine, suspended the company's export privileges for seven years, and placed ASI on the Denied Party's list.

These cases are just a few examples of the outstanding work done by the agents and analysts in Export Enforcement at BIS.

Each of these cases involved companies and individuals who willfully violated our export control laws.

We caught them; we stopped them in their tracks. And every day, every one of us at Export Enforcement is committed to our mission to protect our national security in this dangerous and ever-changing world of proliferation and terrorist threats.

But we cannot do it alone, and we do not try to do it alone. We need your help.

For my part, I look forward to working with all of you to continue to enhance and expand this natural partnership with the exporting community.

Thank you.